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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,833	01/21/2004	Joseph P. Baumgartner	UV-254	5867

75563 7590 05/27/2009

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PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

EXAMINER	
HANCE, ROBERT J	

ART UNIT	PAPER NUMBER
2421	

MAIL DATE	DELIVERY MODE
05/27/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/762,833	BAUMGARTNER ET AL.	
	Examiner	Art Unit	
	ROBERT HANCE	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 April 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-60* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-60* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/13/2009 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-56 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-7 and 10-14 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining

Policy, John J. Love, titled "Clarification of 'Processes' under 35 U.S.C. 101"). The limitations of the instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 6-11, 15, 20-25, 29, 34-39, 43, and 48-53 are rejected under 35 U.S.C. 103(a) as being anticipated by Wugofski, US Patent No. 7,134,133 in view of Williamson et al., US Pub No 2003/0208767.

As to claim 1, Wugofski discloses a method for providing a media display screen using an interactive television application implemented on user equipment (col. 7 lines 3-20 – templates are for broadcast channels, as well as media-on-demand. EPG templates provide access to transaction-based services), the method comprising:

retrieving an interface template (col. 7 lines 15-25);

retrieving at least one vendor-specific interface element associated with a media vendor (col. 6 line 56 – col. 7 line 46);

incorporating the at least one vendor- specific interface element into the interface template (col. 7 lines 16-25; col. 8 lines 12-36); and

displaying a media display screen that is associated with the vendor, wherein the display includes the interface template and the incorporated interface element (col. 8 lines 12-36).

Wugofski fails to disclose that the vendor is a media-on-demand vendor, and that the display screen is displayed in response to receiving a user request for media-on-demand content associated with the media-on-demand vendor.

However, in an analogous art, Williamson discloses, in response to a user request for media-on-demand content associated with a media-on-demand vendor, displaying a media-on-demand display screen that is associated with the vendor (Fig. 14; [0091]-[0094] – users can access on-demand menus associated with broadcasters).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Wugofski with the teachings of Williamson. The rationale for this modification would have been to allow broadcasters to utilize templates to brand their on-demand menu screens as well as their standard broadcast menu screens, thereby allowing the broadcaster increased control over how the menu screens are presented.

As to claim 6, the combined system of Wugofski and Williamson discloses the method of claim 1, wherein the retrieving the interface template comprises providing the

interface template to the interactive television application by a remote server (Wugofski col. 7 lines 16-20; Fig. 2).

As to claim 7, the combined system of Wugofski and Williamson discloses the method of claim 1, wherein the retrieving the vendor-specific interface elements comprises providing the vendor-specific interface elements to the interactive television application by a remote server (Wugofski col. 7 lines 16-33).

As to claim 8, the combined system of Wugofski and Williamson discloses the method of claim 1, wherein the retrieving the vendor-specific interface elements comprises accessing the vendor-specific interface elements stored locally on the user equipment (Wugofski col. 7 line 47 - col. 8 line 36 – see application storage module 403; Fig. 4 – GUI assets module is local and contains vendor information).

As to claim 9, the combined system of Wugofski and Williamson discloses the method of claim 1, wherein the interactive television application comprises an interactive program guide, the method further comprising using the interactive program guide to display the media-on-demand display screen on the user equipment (Wugofski col. 7 lines 3-15 – EPG provides access to transaction-based services, implying media-on-demand requests by users; Williamson Fig. 14).

As to claim 10, the combined system of Wugofski and Williamson discloses using the interactive television application to display multiple media-on-demand display

screens on the user equipment, wherein each of the media-on-demand display screens is associated with a different media-on-demand vendor (Wugofski col. 7 lines 16-19 – at least one template is received; col. 8 lines 7-30 – additional information for each of the networks is kept in memory; Williamson Fig. 14).

As to claim 11, the combined system of Wugofski and Williamson discloses the method of claim 1, wherein the media-on-demand display screen includes video-on-demand listings, the method further comprising displaying the video-on-demand listings as part of the vendor-specific media-on-demand display screen (Wugofski col. 7 lines 3-15 – templates are for broadcast channels. EPG templates provide access to transaction-based services; Williamson Fig. 14; [0091]-[0094]).

As to claims 15, 20-25, see similar rejection to claims 1, 6-11. The user equipment of claims 15-28 corresponds to the method of claims 1, 6-11. Therefore claims 15, 20-25 have been analyzed and rejected based upon method claims 1, 6-11, respectively.

As to claims 29, 34-39, see similar rejection to claims 1. 6-11. The system of claims 29, 34-39 corresponds to the method of claims 1, 6-11. Therefore claims 29, 34-39 have been analyzed and rejected based upon method claims 1, 6-11, respectively.

As to claims 43, 48-53, see similar rejection to claims 1, 6-11. The computer-readable media of claims 43-56 corresponds to the method of claims 1, 6-11. Therefore claims 43, 48-53 have been analyzed and rejected based upon method claims 1, 6-11, respectively. Wugofski states that the invention can be carried out in software (Abstract).

As to claims 57-60 the combined system of Wugofski and Williamson disclose that receiving a user request for media-on-demand content associated with the media-on-demand vendor comprises receiving a user request to display a listing of the media-on-demand content associated with the media-on-demand vendor (Williamson Fig. 14; [0091]-[0094]).

3. Claims 2-3, 5, 12-14, 16-17, 19, 26-28, 30-31, 33, 40-42, 44-45, 47 and 54-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wugofski, in view of Williamson, and further in view of Schowtka, Pub. No. US 2005/0007382 A1.

As to claim 2, Schowtka discloses a template including an invariant element (Paragraph 45 and Fig. 7b – 703 is a non-image area and does not change, regardless of image content).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the template design disclosed by Schowtka with the EPG templates disclosed by Wugofski. The rationale for this combination would have been

to create a more visually appealing program guide and to better handle errors when station-specific elements are missing.

As to claim 3, Schowtka discloses a template including at least one default element (Paragraph 54 – a default image is supplied to substitute for one or more missing images).

As to claim 5, Schowtka discloses determining if an element is absent and incorporating the default element that corresponds to the absent element into the template (Paragraph 54 – a default image is supplied to substitute for one or more missing images).

As to claim 12, Schowtka discloses a template with user- specified definitions where the display of the final product complies with the definitions set by the user (Paragraph 8).

As to claim 13, Schowtka discloses user-specified definitions including color definitions (Paragraph 8).

As to claim 14, Schowtka discloses user-specified definitions including pattern definitions (Paragraph 42 – templates have elements such as lines, shapes, i.e. patterns).

As to claims 16-17, 19 and 26-28, see similar rejection to claims 2-3, 5 and 12-14. The user equipment of claims 15-28 corresponds to the method of claims 2-3, 5 and 12-14. Therefore claims 16-17, 19 and 26-28 have been analyzed and rejected based upon method claims 2-3, 5 and 12-14, respectively.

As to claims 30-31, 33 and 40-42, see similar rejection to claims 2-3, 5 and 12-14. The system of claims 29-42 corresponds to the method of claims 2-3, 5 and 12-14. Therefore claims 30-31, 33 and 40-42 have been analyzed and rejected based upon method claims 2-3, 5 and 12-14, respectively.

As to claims 44-45, 47 and 54-56 see similar rejection to claims 2-3, 5 and 12-14. The computer-readable media of claims 44-45, 47 and 54-56 corresponds to the method of claims 2-3, 5 and 12-14. Therefore claims 44-45, 47 and 54-56 have been analyzed and rejected based upon method claims 2-3, 5 and 12-14, respectively. All references cited in the rejection of claims 2-3, 5 and 12-14 state that the inventions can be carried out in software (Schowtka Paragraph 33; Wugofski Abstract).

5. Claims 4, 18, 32 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wugofski, in view of Williamson, in view of Schowtka, and further in view of Weinberger et al. US Patent No. 7,028,304.

As to claim 4, Weinberger et al. disclose determining if an element is inappropriate for incorporation and incorporating a default element that corresponds to the inappropriate element (col. 20 lines 41-45 – data inconsistent with the layout of the airplane (i.e. inappropriate data) is replaced with default database information).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Weinberger et al. with the template scheme disclosed by the combined system of Wugofski, Williamson and Schowtka. The rationale for this combination

would have been to provide a default image screen not only when an image is missing, as Schowtka describes in Paragraph 54, but also when an image set is inappropriate for the given template

As to claims 18, see similar rejection to claim 4. The user equipment of claim 18 corresponds to the method of claim 4. Therefore claim 18 has been analyzed and rejected based upon method claim 4.

As to claims 32, see similar rejection to claim 4. The system of claim 32 corresponds to the method of claim 4. Therefore claim 32 has been analyzed and rejected based upon method claim 4.

As to claims 46, see similar rejection to claim 4. The machine-readable media of claim 46 corresponds to the method of claim 4. Therefore claim 46 has been analyzed and rejected based upon method claim 4. All three references cited in the rejection of claim 4 state that the inventions can be carried out in software (Schowtka Paragraph 33; Weinberger Abstract; Wugofski Abstract).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT HANCE whose telephone number is (571)270-5319. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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